



House of Representatives

File No. 853

General Assembly

January Session, 2011

(Reprint of File No. 68)

Substitute House Bill No. 6238
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 27, 2011

AN ACT CONCERNING THE ACTUAL CASH VALUE OF A BUILDING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-307 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2012*):

3 Except as provided in section 38a-307a, the standard form of fire
4 insurance policy of the state of Connecticut, with permission to
5 substitute for the word "Company" a more accurate descriptive term of
6 the type of insurer, shall be as follows:

7 [Space for insertion of name of company or companies issuing the
8 policy and other matter permitted to be stated at the head of the
9 policy.]

10 [Space for listing amounts of insurance, rates and premiums for the
11 basic coverages insured under the standard form of policy and for
12 additional coverages or perils insured under endorsements attached.]

T1 In Consideration of the Provisions and Stipulations

[illegible]

and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere. The actual cash value at the time of loss for a building described herein shall be the amount which it would cost to repair or replace such building with material of like kind and quality, minus reasonable depreciation. As used herein, "depreciation" means a decrease in value of real property over a period of time due to wear and tear.

34 Assignment of this policy shall not be valid except with the written
35 consent of this Company.

36 This policy is made and accepted subject to the foregoing provisions

37 and stipulations and those hereinafter stated, which are hereby made a
38 part of this policy, together with such other provisions, stipulations
39 and agreements as may be added hereto, as provided in this policy.

40 In Witness Whereof, this Company has executed and attested these
41 presents.

42 (Secretary).

43 (President).

44 Concealment, fraud. This entire policy shall be void if, whether
45 before or after a loss, the insured has wilfully concealed or
46 misrepresented any material fact or circumstance concerning this
47 insurance or the subject thereof, or the interest of the insured therein,
48 or in case of any fraud or false swearing by the insured relating
49 thereto.

50 Uninsurable and excepted property. This policy shall not cover
51 accounts, bills, currency, deeds, evidences of debt, money or securities;
52 nor, unless specifically named hereon in writing, bullion or
53 manuscripts.

54 Perils not included. This Company shall not be liable for loss by fire
55 or other perils insured against in this policy caused, directly or
56 indirectly, by: (a) Enemy attack by armed forces, including action
57 taken by military, naval or air forces in resisting an actual or an
58 immediately impending enemy attack; (b) invasion; (c) insurrection;
59 (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order
60 of any civil authority except acts of destruction at the time of and for
61 the purpose of preventing the spread of fire, provided that such fire
62 did not originate from any of the perils excluded by this policy; (i)
63 neglect of the insured to use all reasonable means to save and preserve
64 the property at and after a loss, or when the property is endangered by
65 fire in neighboring premises; (j) nor shall this Company be liable for
66 loss by theft.

67 Other Insurance. Other insurance may be prohibited or the amount

68 of insurance may be limited by endorsement attached hereto.

69 Conditions suspending or restricting insurance. Unless otherwise
70 provided in writing added hereto this Company shall not be liable for
71 loss occurring (a) while the hazard is increased by any means within
72 the control or knowledge of the insured; or (b) while a described
73 building, whether intended for occupancy by owner or tenant, is
74 vacant or unoccupied beyond a period of sixty consecutive days; or (c)
75 as a result of explosion or riot, unless fire ensue, and in that event for
76 loss by fire only.

77 Other perils or subjects. Any other peril to be insured against or
78 subject of insurance to be covered in this policy shall be by
79 endorsement in writing hereon or added hereto.

80 Added provisions. The extent of the application of insurance under
81 this policy and of the contribution to be made by this Company in case
82 of loss, and any other provision or agreement not inconsistent with the
83 provisions of this policy, may be provided for in writing added hereto,
84 but no provision may be waived except such as by the terms of this
85 policy is subject to change.

86 Waiver provisions. No permission affecting this insurance shall
87 exist, or waiver of any provision be valid, unless granted herein or
88 expressed in writing added hereto. No provision, stipulation or
89 forfeiture shall be held to be waived by any requirement or proceeding
90 on the part of this Company relating to appraisal or to any
91 examination provided for herein.

92 Cancellation of policy. This policy shall be cancelled at any time at
93 the request of the insured, in which case this Company shall, upon
94 demand and surrender of this policy, refund the excess of paid
95 premium above the customary short rates for the expired time. This
96 policy may be cancelled at any time by this Company by giving to the
97 insured and any third party designated pursuant to section 38a-323a, a
98 thirty days' written notice of cancellation accompanied by the reason
99 therefor with or without tender of the excess of paid premium above

100 the pro rata premium for the expired time, which excess, if not
101 tendered, shall be refunded on demand. Notice of cancellation shall
102 state that said excess premium (if not tendered) will be refunded on
103 demand. Where cancellation is for nonpayment of premium at least ten
104 days' written notice of cancellation accompanied by the reason therefor
105 shall be given.

106 Mortgagee interests and obligations. If loss hereunder is made
107 payable, in whole or in part, to a designated mortgagee not named
108 herein as the insured, such interest in this policy may be cancelled by
109 giving to such mortgagee a ten days' written notice of cancellation.

110 If the insured fails to render proof of loss such mortgagee, upon
111 notice, shall render proof of loss in the form herein specified within
112 sixty (60) days thereafter and shall be subject to the provisions hereof
113 relating to appraisal and time of payment and of bringing suit. If this
114 Company shall claim that no liability existed as the mortgagor or
115 owner, it shall, to the extent of payment of loss to the mortgagee, be
116 subrogated to all the mortgagee's rights of recovery, but without
117 impairing mortgagee's right to sue; or it may pay off the mortgage debt
118 and require an assignment thereof and of the mortgage. Other
119 provisions relating to the interests and obligations of such mortgagee
120 may be added hereto by agreement in writing.

121 Pro rata liability. This Company shall not be liable for a greater
122 proportion of any loss than the amount hereby insured shall bear to
123 the whole insurance covering the property against the peril involved,
124 whether collectible or not.

125 Requirements in case loss occurs. The insured shall give immediate
126 written notice to this Company of any loss, protect the property from
127 further damage, forthwith separate the damaged and undamaged
128 personal property, put it in the best possible order, furnish a complete
129 inventory of the destroyed, damaged and undamaged property,
130 showing in detail quantities, costs, actual cash value and amount of
131 loss claims; AND WITHIN SIXTY DAYS AFTER THE LOSS, UNLESS

132 SUCH TIME IS EXTENDED IN WRITING BY THIS COMPANY, THE
133 INSURED SHALL RENDER TO THIS COMPANY A PROOF OF
134 LOSS, signed and sworn to by the insured, stating the knowledge and
135 belief of the insured as to the following: The time and origin of the loss,
136 the interest of the insured and of all others in the property, the actual
137 cash value of each item thereof and the amount of loss thereto, all
138 encumbrances thereon, all other contracts of insurance, whether valid
139 or not, covering any of said property, any changes in the title, use,
140 occupation, location, possession or exposures of said property since
141 the issuing of this policy, by whom and for what purpose any building
142 herein described and the several parts thereof were occupied at the
143 time of loss and whether or not it then stood on leased ground, and
144 shall furnish a copy of all the descriptions and schedules in all policies
145 and, if required, verified plans and specification of any building,
146 fixtures or machinery destroyed or damaged. The insured, as often as
147 may be reasonably required, shall exhibit to any person designated by
148 this Company all that remains of any property herein described, and
149 submit to examinations under oath by any person named by this
150 Company, and subscribe the same; and, as often as may be reasonably
151 required, shall produce for examination all books of account, bills,
152 invoices and other vouchers, or certified copies thereof if originals be
153 lost, at such reasonable time and place as may be designated by this
154 Company or its representative, and shall permit extracts and copies
155 thereof to be made.

156 Appraisal. In case the insured and this Company shall fail to agree
157 as to the actual cash value or the amount of loss, then, on the written
158 demand of either, each shall select a competent and disinterested
159 appraiser and notify the other of the appraiser selected within twenty
160 days of such demand. The appraisers shall first select a competent and
161 disinterested umpire; and failing for fifteen days to agree upon such
162 umpire, then, on request of the insured or this Company, such umpire
163 shall be selected by a judge of a court of record in this state in which
164 the property covered is located. The appraisers shall then appraise the
165 loss, stating separately actual cash value and loss to each item; and,

166 failing to agree, shall submit their differences, only, to the umpire. An
167 award in writing, so itemized, of any two when filed with this
168 Company shall determine the amount of actual cash value and loss.
169 Each appraiser shall be paid by the party selecting him and the
170 expenses of appraisal and umpire shall be paid by the parties equally.

171 Company's options. It shall be optional with this Company to take
172 all, or any part, of the property at the agreed or appraised value, and
173 also to repair, rebuild or replace the property destroyed or damaged
174 with other of like kind and quality within a reasonable time, on giving
175 notice of its intention so to do within thirty days after the receipt of the
176 proof of loss herein required.

177 Abandonment. There can be no abandonment to this Company of
178 any property.

179 When loss payable. The amount of loss for which this Company
180 may be liable shall be payable thirty days after proof of loss, as herein
181 provided, is received by this Company and ascertainment of the loss is
182 made either by agreement between the insured and this Company
183 expressed in writing or by the filing with this Company of an award as
184 herein provided. This Company and the insured may agree in writing
185 to a partial payment of the amount of loss as an advance payment.
186 Any advance payment shall be credited against the total amount of
187 loss due to the insured. An advance payment shall not affect the
188 requirement of this Company to pay the total amount of loss not later
189 than thirty days after proof of loss.

190 Suit. No suit or action on this policy for the recovery of any claim
191 shall be sustainable in any court of law or equity unless all the
192 requirements of this policy shall have been complied with, and unless
193 commenced within eighteen months next after inception of the loss.

194 Subrogation. This Company may require from the insured an
195 assignment of all right of recovery against any party for loss to the
196 extent that payment therefor is made by this Company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	38a-307

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill makes clarifying changes to the standard homeowner's insurance policy language. There is no state or municipal fiscal impact.

House "A" changed the effective date of the underlying bill. There was no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6238 (as amended by House "A")******AN ACT CONCERNING THE ACTUAL CASH VALUE OF A BUILDING.*****SUMMARY:**

The law provides the standard language for a fire insurance policy (e.g., homeowners' insurance). It defines the term "actual cash value" as the amount it would cost to repair or replace property with material of like kind and quality.

This bill retains the existing definition for property other than a building. It redefines "actual cash value" with respect to a building insured under the policy as the amount it would cost to repair or replace the building with material of like kind and quality, minus reasonable depreciation. It defines "depreciation" as a decrease in real property's value over time due to wear and tear.

*House Amendment "A" changes the effective date from October 1, 2011 to January 1, 2012.

EFFECTIVE DATE: January 1, 2012

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 14 Nay 4 (02/24/2011)